



## Open Burning for Specified Purposes #05-268(APCB)

### Overview

Amends 326 IAC 4-1-3 to add to the exemptions for open burning for specified purposes.

### Citations Affected

Amends 326 IAC 4-1-3.

### Affected Persons

Affected sources who provide fire safety training for employees, local fire and health departments, and adjacent landowners. Persons who open burn for maintenance purposes. Notification of this rulemaking has been sent to all county fire and health departments and open burning approval applicants.

### Reason or Reasons for the Rule

IDEM was asked to amend 326 IAC 4-1-3(c)(8) to provide exemptions and fuel limits for methane, propane, and natural gas when used as a fuel for fire extinguisher training. In exempting these fuels by rule, fire extinguisher training providers will no longer be required to obtain an open burning approval as required by 326 IAC 4-1-4.1 prior to using methane, propane, or natural gas as a fuel for fire extinguisher training.

Additionally, 326 IAC 4-1-3 is being updated to be consistent with statutory changes at IC 13-17-9 and Natural Resources Commission rule changes at 312 IAC 16-5-11.

### Economic Impact of the Rule

Low economic impact. The cost differential between currently used fuels and additional exempted fuels is minimal. Other savings may include elimination of disposal fees for contaminated liquids remaining after fire extinguisher training and staff time saved with the elimination of yearly burning applications to IDEM to request use of fuels not currently exempted.

### Benefits of the Rule

Adds exemptions and fuel limits for the use of three additional clean burning fuels for fire extinguisher training.

### Description of the Rulemaking Project

IDEM is proposing amendments to the open burning rules to allow the use of natural gas, methane, and propane in addition to clean petroleum products for fire extinguisher training because these fuels also burn cleanly. IDEM would no longer require annual approvals to use these fuels. Also, daily usage limits are proposed to ensure that NOx emissions for methane, propane, and natural gas will not exceed the amount of NOx emissions from using clean petroleum products currently allowed under 326 IAC 4-1-3.

In addition, pursuant to a statutory change to IC 13-17-9, IDEM is updating 326 IAC 4-1-3(a)(1)(A) to add two exemptions to allow the burning of vegetation at a cemetery; and burning on agricultural land, if the open burn occurs in an unincorporated area. An additional amendment to 326 IAC 4-1-3(c)(3) concerning waste oil burning updates a citation from 310 IAC 7-1-37(a) in the Department of Natural Resources (DNR) rules to 312 IAC 16-5-11 in the Natural Resources Commission rules.

### Scheduled Hearings

First Public Hearing: August 2, 2006

### Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment

sufficiently uncontaminated as not to be injurious to:

(A) human, plant, animal, or aquatic life; or

(B) the reasonable enjoyment of life and property.

### **Consistency with Federal Requirements**

The amended rule is consistent with federal laws, rules, guidance.

### **Rulemaking Process**

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Legislative Services Agency.

### **IDEM Contact**

Additional information regarding this rulemaking action can be obtained from Suzanne Whitmer, Rule Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).